

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton;  
Tony Hammond; and  
Robert G. Taub

Notice of Price Adjustment

Docket No. R2012-9

ORDER APPROVING MARKET DOMINANT PRICE ADJUSTMENT

(Issued August 7, 2012)

I. INTRODUCTION

A. Overview

On June 27, 2012, the Postal Service filed a notice of price adjustment pursuant to 39 U.S.C. 3622 and 39 CFR 3010 to temporarily reduce the prices for First-Class Mail and Standard Mail letters, flats, and cards (presort and automation) that contain a qualifying mobile barcode or similar print technology inside or on the qualifying mailpieces (Mobile Shopping Promotion).<sup>1</sup> The Mobile Shopping Promotion includes an upfront 2-percent discount on qualifying mailpieces. It is scheduled to take effect at 12:01 a.m. on November 7, 2012 and expires at 11:59 p.m. on November 21, 2012. *Id.*

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<sup>1</sup> United States Postal Service Notice of Market-Dominant Price Adjustment, June 27, 2012 (Notice).

at 1. It also includes an additional 1-percent rebate to promote use of Priority Mail during the holiday shipping season. *Id.* at 5-6.

The Postal Service states that this is the most recent in a series of price incentives to integrate mobile technologies into its direct mail categories. Integration will enhance consumers' interaction with direct mail advertising, improve the long-term value of the mail and should stabilize and improve the long-term financial health of First-Class Mail and Standard Mail products by encouraging continued use of direct mail advertising.<sup>2</sup> *Id.* at 3. The Mobile Shopping Promotion, which is described as continuing the trend of implementing smaller, more targeted promotions that drive mailer behavior, is designed to demonstrate how mobile technologies make direct mail more convenient for consumers to do holiday shopping.<sup>3</sup>

#### B. Procedural History

In Order No. 1389, the Commission established Docket No. R2012-9 to consider the Postal Service's Mobile Shopping Promotion, set July 17, 2012 as the date for interested persons to submit comments on the planned price adjustments, and appointed a Public Representative to represent the interests of the general public in this proceeding.<sup>4</sup>

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<sup>2</sup> See Docket No. R2011-5, Order No. 731, Order Approving Market-Dominant Price Adjustment, May 17, 2011; Docket No. R2012-6, Order No 1296, Approving Market-Dominant Price Adjustment, March 26, 2012 (Order No. 1296).

<sup>3</sup> In Order No. 1296, the Commission directed that, "If there are future, similar promotions, the Postal Service should report to the Commission on its results from the 2012 Promotion and to demonstrate the long-term value of similar discounts going forward." *Id.* at 8. The 2012 Promotion is still in effect, but the Postal Service uses the results for the 2011 Promotion and conversations with mailers in an effort to demonstrate the long-term value of the Mobile Shopping Promotion. Notice at 5 n. 13.

<sup>4</sup> Notice and Order Concerning Market Dominant Price Adjustment for First-Class Mail and Standard Mail, Order No. 1389, June 29, 2012.

Comments were received from the Public Representative<sup>5</sup> and Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. (Valpak).<sup>6</sup>

## II. PROPOSED ADJUSTMENT

### A. Postal Service Filing

*Promotion parameters.* The Mobile Shopping Promotion will provide an upfront 2-percent discount on Standard Mail and First-Class Mail letters, flats, and cards (presort and automation) that include a qualifying mobile barcode or print/mobile technology inside or on the qualifying mailpiece. Notice at 6. The mobile barcode must be readable by a mobile device and must lead the recipient to a mobile optimized shopping website allowing the recipient to purchase an advertised product on the mobile device. The sale of services, as distinct from purchase of an advertised product, does not qualify under the instant promotion. *Id.*

The Postal Service also proposes an additional 1-percent rebate for participating mailers on the pre-discount postage for their Qualifying Mailings (if a portion of their orders are fulfilled via Priority Mail with a unique trackable barcode, *i.e.*, Delivery Confirmation or Intelligent Mail Package Barcode). *Id.* at 1-2, 6-7. To qualify for a rebate, a mailer must demonstrate that during the Fulfillment Period, *i.e.*, November 9, 2012 through December 31, 2012, Priority Mail packages delivered to customers exceeded 0.5 percent of the total number of Qualifying Mailpieces it sent during the Promotion Period (Fulfillment Threshold).

*Registration requirements.* Participants, which may include mail service providers, "will be required to register for the Mobile Shopping Promotion and agree to its terms at least 2 hours prior to the first Qualifying Mailing." *Id.* at 7. Mailers will be required to specify which permits and Customer Registration IDs (CRIDS) will be

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<sup>5</sup> Public Representative Comments, July 17, 2012 (PR Comments).

<sup>6</sup> Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Comments on the United States Postal Service Notice of Market-Dominant Price Adjustment, July 17, 2012 (Valpak Comments).

participating in the promotion and to select an account to receive credit for the 1-percent rebate. *Id.* at 7-8. In addition, mailers will be required to participate in a survey at the end of the promotion to help the Postal Service measure its results. *Id.* at 8.

Registration is planned to open around September 15, 2012 to give mailers adequate lead time for preparations and investments needed to qualify for the promotion. *Id.*

*Postage statement.* The mailings must be submitted electronically via mail.dat, mail.xml, or Postal Wizard. Mailers must affirmatively claim the Mobile Shopping Promotion on their electronic postage submissions and certify that each mailpiece contains a mobile barcode and meets other requirements. Commingled, co-mailed, and combined mailings are allowed, but a separate postage statement is required for mailpieces claiming the discount. Automation pieces must contain an Intelligent Mail Barcode. The upfront 2-percent promotion discount must be claimed at the time of mailing; it cannot be rebated at a later date. *Id.* Postage must be paid using a permit imprint, pre-cancelled stamp imprint, or qualifying meter mail. *Id.*

Mailers of Qualifying Mailings must provide a hard copy sample of each mailer's mailpiece. Random sampling will be conducted to ensure mailings meet the promotion requirements. Mailers must retain an electronic or hard copy sample of the Qualifying Mailpieces until January 15, 2013 for forwarding to the Postal Service, if requested. *Id.* at 10.

*Process for 1-percent rebate.* Mailers who believe they meet the Fulfillment Threshold may submit applications for a rebate beginning on January 1, 2013, but no later than February 15, 2013. The Postal Service's program office will verify the information submitted and, where the Fulfillment Threshold was met, the 1-percent rebate on the pre-discounted postage will be applied to the mailer's Mailing Payment Account. *Id.* at 9.

## B. Comments

The proposal is opposed, in part, by Valpak and the Public Representative who argue that discounts should not be extended to Standard Mail Flats. Valpak, which opposed the two previous mobile barcode promotions in Docket Nos. R2011-5 and R2012-6, argues that the Postal Service should comply with the Commission's remedial pricing findings in the FY2010 Annual Compliance Determination (FY2010 ACD) regarding Standard Mail Flats. Valpak Comments at 2-3. Valpak contends there is no logical nexus between offering discounts to Standard Mail Flats and increasing profitability of that product, stating that the Postal Service's claim that the discount will improve the long-term value of Standard Mail Flats is unsupported. *Id.* at 4. It also contends the argument that the discount will have a *de minimis* effect on the Postal Service's financial losses is relative, "but to justify this program on that basis demonstrates a spirit of financial recklessness." *Id.* Valpak concludes that no legitimate purpose is served by discounts that encourage volume of a below-cost product. *Id.*

The Public Representative also advocates excluding Standard Mail Flats from the Mobile Shopping Promotion. PR Comments at 5. The Public Representative cites the extended history of Commission discussion about the disparity between Standard Mail Letters and Standard Mail Flats institutional cost burden. *Id.* at 3-4. The Public Representative says the discount exacerbates the situation by increasing that disparity. *Id.* at 4.

She also questions the wisdom of including loss-making Standard Mail Flats in the promotion, which is estimated to reduce Flats' revenue by \$0.4 to \$0.8 million. *Id.* While the Public Representative appreciates the Postal Service's attempts to improve the value of the mail, she believes that catalogers who did not participate in the past promotion for financial reasons are not likely to participate here. She suggests that

catalogers should experiment with new technology, but not at the expense of other mailers.<sup>7</sup>

Regarding the additional rebate for the use of Priority Mail, the Public Representative points out that 39 U.S.C. 3633(a)(2) requires each competitive product to cover its attributable costs. She contends that the Postal Service should have addressed compliance with 39 U.S.C. 3633(a) and suggests alternate means for allocating the rebate to Priority Mail, *i.e.*, as a product-specific cost or as a reduction in Priority Mail revenues. *Id.* at 5-6.

### III. COMMISSION ANALYSIS

*39 CFR part 3010.* The Notice was filed pursuant to 39 U.S.C. § 3622 and 39 CFR part 3010. Notice at 1. To that end, the Postal Service provides information responsive to 39 CFR 3010.14. The Commission has previously stated that nothing in title 39 prohibits the Postal Service from lowering prices, provided that, among other things, it neither unduly discriminates against nor favors any mailer. See Order No. 1296 at 6.

As the Public Representative points out, the Mobile Shopping Promotion is something of a hybrid, including both market dominant products and a competitive product. As to the market dominant products, the Postal Service has reasonably satisfied the requirements of 39 CFR part 3010. See Notice at 2, 14-18. The Postal Service, however, did not submit comparable information applicable to the competitive product, Priority Mail, or address how the rebate should be allocated among the subject products. Given the limited 2-week duration of the promotion, the failure to do so does not prevent the Commission from considering the merits of the proposal.

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<sup>7</sup> The Public Representative also expresses the general concern that this third mobile barcode promotion, although narrower than the previous ones, may nonetheless provide discounts to mailers who have already adopted the requisite technology and thus is not necessary to incent the behavior the promotion is intended to encourage. While cautioning that “the revenue loss from discounts outweighs the benefits,” the Public Representative urges the Postal Service to survey mailers on their plans to continue to use this technology after the promotion and to identify the number of new mailers using the promotion. *Id.* at 3.

*Workshare discounts.* The Postal Service states, and the Commission agrees, that the Mobile Shopping Promotion will not impact current workshare discounts. *Id.* at 18.

*Preferred rates.* The Mobile Shopping Promotion does not exclude any mailers, and therefore the Postal Service represents that it will not affect compliance with any preferred rate requirements. *Id.* at 19. All things being equal, the Mobile Shopping Promotion should not affect compliance with 39 U.S.C. 3626(a)(6)(A) because the discount applies to nonprofits as well.

*Impact on price cap.* Rules 3010.14(b)(1)-(4) require price adjustments to comply with the price cap limitations in the Postal Accountability and Enhancement Act (PAEA). Consistent with past limited-availability discounts, including the prior mobile barcode promotions, the Postal Service intends to exclude the Mobile Shopping Promotion from price-cap calculations pursuant to the procedures described in rule 3010.24. *Id.* at 14.

The Postal Service's decision to forego the effects of the discount for price-cap calculation purposes is reasonable. While Valpak and the Public Representative object to extending the Mobile Shopping Promotion to Standard Mail Flats, no commenter objects to this aspect of the proposal. No mailer would appear to be disadvantaged by the Postal Service's decision not to bank the amount foregone. In essence, the limited duration discounts can be characterized as a generally applicable rate adjustment that effectively lowers all rates implicated.

*Standard Mail Flats.* The Postal Service proposes to extend the promotional discounts to mailers of Standard Mail Flats. The Postal Service recognizes that the "immediate effect" of the promotion "does not further the goals of increased cost coverage and reduced subsidy" as set forth in the Commission's FY2010 ACD. Notice at 11. In support of its proposal, the Postal Service asserts that (1) initiatives, like the Mobile Shopping Promotion, help to preserve and improve product volume growth; (2) the short duration of the promotion should not appreciably affect Standard Mail Flats' cost coverage; and (3) eliminating Standard Mail Flats from the promotion would make it

more difficult for some mailers to participate thus diminishing the promotion's potential impact. *Id.* at 12-13.

As noted above, the Public Representative and Valpak oppose the inclusion of Standard Mail Flats because the product does not cover costs.

While the Commission has continuing concerns about the intra-class cross-subsidy, it is not persuaded, given the parameters of the Mobile Shopping Promotion, that Standard Mail Flats should be excluded from the promotion. The Mobile Shopping Promotion has several objectives. First, it is designed to enhance the long-term value of First-Class and Standard Mail. Second, with technology providing alternative marketing options, the promotion helps ensure the continuing relevance of direct mail as a marketing tool. Third, the promotion is designed to stimulate volume growth, thus strengthening the Postal Service's finances. Fourth, it provides an incentive to use Priority Mail. Lastly, since it is being offered in conjunction with the holiday shopping season, it may provide insight into consumers' shopping preferences, improve consumer convenience, and make mail more relevant to a younger, more technologically reliant demographic.

Two other points are worth mention. The Mobile Shopping Promotion is more narrowly drawn than its predecessors and, given its limited 2-week duration, should not materially affect Standard Mail Flats' cost coverage. Accordingly, on balance, the Commission will not exclude Standard Mail Flats from the promotion.

*Estimated financial impact.* The Postal Service estimates the financial impact of the Mobile Shopping Promotion will range between \$3 million (under the low volume adoption scenario) to \$6 million (under the high volume adoption scenario). *Id.* at 10, Appendix B. The estimates, which assume that the promotion will generate no additional volume, are far less than the costs estimated for the 2012 Promotion of \$16 million on the low end and \$35 million on the high end. Order No. 1296 at 8-9. The differences appear to be due to the shorter duration and narrower parameters of the Mobile Shopping Promotion.



As noted by the Public Representative, the rebate on Standard and First-Class Mail that is tied to the use of Priority Mail must be properly allocated.<sup>8</sup> To ensure compliance with 39 U.S.C. § 3633(a)(1), which prohibits market dominant products from subsidizing competitive products, the Postal Service must properly allocate the 1-percent rebate as a competitive product cost when it calculates competitive products' incremental costs.<sup>9</sup> Furthermore, other costs related to this promotion should be allocated between the products benefiting from the promotion. For example, costs to advertise the promotion should be divided between Standard, First Class and Priority Mail.

*Postal Service survey.* The Postal Service Mobile Shopping Program requires participants to agree to be surveyed at the end of the program period to assist in measuring the results of the promotion. Notice at 8.

The Public Representative suggests additional information would be useful to determine whether mailers plan to continue using this mobile technology after the promotion period and how many new mailers the promotion has attracted. PR Comments at 3. These are questions that would help to determine the incremental benefits of such discount programs and inform the Postal Service's plans about the merits of similar or other possible promotions. The Commission encourages the Postal Service to consider including such questions in surveying customers of the instant promotion.

*Objectives and factors.* The Postal Service states that the promotion does not substantially alter the degree that First-Class Mail and Standard Mail prices already address the objectives and factors in 39 U.S.C. § 3622. *Id.* at 15-18. Specifically, the

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<sup>8</sup> The 1-percent rebate is based on the pre-discount First-Class and Standard Mail postage for participants' Qualifying Mailings. See *id.* at 6-7.

<sup>9</sup> The Postal Service does not address how the cost of the rebate should be allocated among products. In this instance, that cost is unlikely to cause Priority Mail or competitive products collectively to violate 39 U.S.C. §§ 3633(a)(2) or (a)(1), respectively. In the future, if the Postal Service wishes to combine discounts and/or rebates for market dominant and competitive products in a single promotion, its notice should comport with the Commission's rules for market dominant and competitive products, e.g., 39 CFR part 3010 and 3015, respectively.

Postal Service notes that the Mobile Shopping Promotion encourages increased mail volume (factor 7); and does not imperil the ability of First-Class Mail or Standard Mail to cover attributable costs (factor 2). *Id.*

The Postal Service also contends the Mobile Shopping Promotion is consistent with objective 4 (pricing flexibility) and objective 5 (enhancing financial stability by incenting profitable volume growth). *Id.* at 3, 12.

The Commission finds that the promotion is unlikely to materially alter the degree to which First-Class Mail and Standard Mail prices comply with the objectives and factors of 39 U.S.C. § 3622.

*It is ordered:*

1. The Commission approves the proposed market dominant price adjustment set forth by the Postal Service in its Notice dated June 27, 2012.
2. For annual compliance reporting purposes, the Postal Service shall allocate the cost of the 1-percent rebate and other costs related to the Mobile Shopping Promotion consistent with the body of this Order.
3. The Postal Service shall report to the Commission, no later than 90 days following the close of the Mobile Shopping Promotion period, on the volume and gross discount awarded to each product.

By the Commission.

Shoshana M. Grove  
Secretary